

Attorney Docket No. 23517/4.7

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Claims 1-11 are pending. Claims 1, 5, and 9-11 were previously amended.

Claims 1-11 stand rejected in the Office Action as being unpatentable per 35 U.S.C. 103(a) over U.S. Pat. No. 4,237,344 to John R. Moore ("Moore") in view of U.S. Pat. No. 5,086,391 to Bryan R. Chambers ("Chambers"), in further view of U.S. Pat. 6,968,375 to Stephen J. Brown ("Brown"). For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action. In view of the following remarks, Applicant respectfully requests reconsideration of all pending Claims 1-11.

Rejections under § 103(a)

Claims 1-11 stand rejected as being obvious under 35 U.S.C. § 103(a). In order to make a *prima facie* case of obviousness, "all of the claim limitations must be taught or suggested by the prior art." *In re Royka*, 490 F.2d 981 (CCPA 1971); also see MPEP § 2143.03.

Applicant respectfully traverses the rejection of claims 1-11 since the purported prior art references cited in the Office Action do not teach or suggest at least one of the limitations of Claim 1;

Claim 1 recites,

"assigning one of a plurality of pre-established determinant levels based on the description of said problem ... wherein said determinations are made using a systematic prescribed interrogation of callers... based on responses to [] preprogrammed inquires, thereby eliminating variability due to the different skills of the individual dispatchers."
(emphasis added.)

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As discussed in the Response to Office Action mailed December 26, 2006, *Moore* does not teach or suggest assigning one of a plurality of pre-established determinant levels to a call as recited in Claim 1. The Office Action alleges that *Moore* teaches this feature; specifically, the Office Action cites:

"...upon receipt of the patient's signal in a particular mode, the health care coordinator is provided with means for visually displaying the patient's medical profile ... having reviewed the patient's medical profile, and knowing the location of health care personnel on a given floor, or in proximity with the calling patient, [the health care coordinator] can accurately and precisely make an informed decision on the degree of medical response required ..."

(*Moore* col. 3, ll. 59-66; emphasis added; also see Office Action p. 3, ll. 1-7.) Nowhere in this passage does *Moore* teach or suggest assigning a pre-established determinant level to a call. In contrast, *Moore* states that the health care coordinator is to make an informed decision as to the degree of medical response required. *Moore* col. 3, l. 64. No pre-established determinant level assigned to the call is taught or suggested. An "informed decision" is not an assignment of one of a plurality of pre-established determinant values as recited in Claim 1.

Moreover, requiring the health coordinator to make an "informed decision," evinces one of the problems the present invention addresses: the "eliminat[ion] [of] variability due to the different skills of the individual [health care coordinators]." See Application at p. 5, ¶ 1. Claim 1 explicitly addresses this problem by reciting a determinant level based on responses to preprogrammed inquiries, "thereby eliminating variability due to the different skills of the individual dispatchers [or health coordinators]." See Claim 1. Individual decisions, even "informed decisions," are inherently subjective and are based on the skill level and experience of the decision maker. As such, merely making an inherently subjective "informed decision" does not teach or suggest

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assigning one of a plurality of pre-determined determinant levels based on responses to prescribed interrogatories to eliminate variability due to the different skills of the individual dispatchers as recited in Claim 1.

Similarly, *Chambers* neither teaches nor suggests assigning one of a plurality of pre-established determinant levels to a call as recited in Claim 1. The Office Action cites the following passage of *Chambers* as teaching this feature, which states:

"If the user should press one of the remaining buttons on the key pad [buttons corresponding to various medical conditions] ... the C.P.U. will send an audio message ... the message will contain instructions for the user to assist the injured victim.... An example is provided below:

'For minor burns: ... [instructions]
'For serious burns: ... [instructions]'"

(*Chambers* col. 5, ll. 20-44; emphasis added.) Rather than teaching or suggesting assigning one of a plurality of pre-established determinant levels to a call based on responses to preprogrammed inquiries, *Chambers* merely states that a user may press a button corresponding a particular condition to hear audio treatment instructions. See *Chambers* at col. 5, l. 20. This is not an assignment of a pre-established determinant level to a call as recited in Claim 1. Moreover, even if it could be construed as such, Claim 1 recites that the assignment is based on, "responses to [] preprogrammed inquires, thereby eliminating variability due to the different skills of the individual dispatchers." See Claim 1. In direct contrast, *Chambers* requires that a user make the inherently subjective decision of which button to press; no preprogrammed inquires on which to base this purported determination are taught or suggested. See *Chambers* col. 5, ll-20-66. As such, *Chambers* cannot teach or suggest the assignment of a pre-established determinant level to a call as recited in Claim 1. *Chambers* further states that a user may press an "emergency 911" button, which will cause the system allegedly

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taught therein to, "dial the emergency 911 number." *Chambers* col. 4, ll. 58-63. However, again, *Chambers* requires that a user make a subjective decision to press the button. Pressing a button is not assigning a pre-established determinant level to a call, and even if it could be construed as such, *Chambers* does not teach doing so in response to preprogrammed inquiries to eliminate variability due to the different skills of individual dispatchers as recited by Claim 1.

The Office Action does not purport that *Brown* teaches or suggests assigning one of a plurality of determinant levels to a call. Since neither *Moore*, *Chambers* nor *Brown* teach or suggest at least one of the features of Claim 1, Applicant respectfully traverses the rejection of Claim 1. Applicant respectfully traverses the rejection of Claims 2-11 as these claims depend on Claim 1, and, if an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988); also see MPEP § 2143.03.

General Considerations

By the remarks provided herein, Applicant has addressed all outstanding issues presented in the Office Action. Applicant notes that the remarks presented herein have been made merely to clarify the claimed invention from elements purported by the Office Action to be taught by the cited references. Such remarks should not be construed as acquiescence, on the part of Applicant, as to the purported teachings or prior art status of the cited references, nor as to the characterization of the cited references advanced in the Office Action. Accordingly, Applicant reserves the right to

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challenge the purported teachings and prior art status of the cited references at an appropriate time.

CONCLUSION

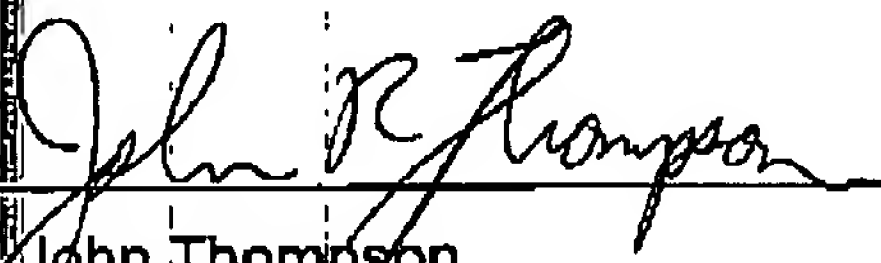
For the reasons discussed above, Applicant submits that the claims are in proper condition for allowance, and a Notice of Allowance is respectfully requested. If the Examiner notes any further matters that may be resolved by a telephone interview, the Examiner is encouraged to contact John Thompson by telephone at (801) 578-6994.

DATED this 30 day of July, 2007.

Respectfully submitted,

Jeffery J. Clawson

By



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